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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/568,092	02/10/2006	Sang-Kee Kim	409-013	7766
47888 7590 09/11/2009 HEDMAN & COSTIGAN P.C. 1185 AVENUE OF THE AMERICAS NEW YORK, NY 10036				
EXAMINER				
WALKER, NED ANDREW				
ART UNIT		PAPER NUMBER		
3781				
MAIL DATE		DELIVERY MODE		
09/11/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/568,092

**Applicant(s)**

KIM, SANG-KEE

**Examiner**

NED A. WALKER

**Art Unit**

3781

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) 1, 2, 4, 6-8 and 10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 3, 5, 9 and 11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 February 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 3, 5, 9, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by McMann (US Pat. No. 1,857,853).**

McMann discloses a container cover (FIGS. 1-2) comprising: a cover plate (19) having a rear surface (lower surface of 19 in FIG. 2); and a closing member (17, 18) having two fixing portions (20, 21) fixed to the cover plate, wherein a first fixing portion (21) is fixed to the cover plate along a peripheral portion of said rear surface of said cover plate (FIG. 2) and a second fixing portion (20) is fixed to the cover plate along a peripheral portion of a second surface of the cover plate (top surface of 19 in FIG. 2), and wherein said closing member includes an annular contact portion (17) integrally formed along a peripheral portion of said two fixing portions (integral to the junction between 20 and 21 as shown in FIG. 2 and therefore along the peripheral portion of both fixing portions since the two fixing portions are integral), wherein said annular contact portion is bent from the two fixing portions toward said second surface and extending integrally therefrom (bent in the horizontal direction towards the top surface of 19 in FIG. 2); wherein the cover plate has a round formed at a side end of the cover plate along its lower peripheral portion (portion of 19 adjacent 23 in FIGS. 2); wherein

no part of said contact portion extends integrally farther than any other part of said contact portion (FIG. 2); wherein the contact portion includes an end having at least one protrusion (22) extending from said end and adapted to press against an outer surface of a container being covered (FIG. 2).

### ***Response to Arguments***

3. Applicant's arguments, see amendment filed May 18<sup>th</sup>, 2009, with respect to the rejection of Claims 3, 5, 9, and 11 under 35 USC §102(b) as being anticipated by McMann (US Pat. No. 1,857,853), have been fully considered, but are not persuasive.

In response to Applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "a container cover which can be applied to a container irrespective of the type or size of the container; "a contact portion be connected to both fixing portions") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to Applicant's argument that McMann does not disclose "a contact portion be connected to both fixing portions", the Examiner points out that the actual representative claim language of this feature is "an annular contact portion (17) integrally formed along a peripheral portion of said two fixing portions". The Applicant should appreciate the broadness of this claim language in that the annular contact portion need be merely adjacent to the fixing portions and integrally molded therewith. Therefore, the McMann reference does anticipate the claim language since both fixing

portions are integrally formed along a peripheral portion via 20 and 21 and the integral connection existing between those parts and the subsequent connection of this system to 17.

With respect to Applicant's argument that McMann does not disclose "a contact portion bent towards the second surface", the Examiner contends that McMann does show this and has clarified the rejection to explain that 17 of McMann is bent in a horizontal direction toward the middle of the container, which is the direction in which 19 is disposed since it covers the middle of the container. Therefore McMann anticipates the claim.

For these reasons, the rejection of Claims 3, 5, 9, and 11 under 35 USC §102(b) as being anticipated by McMann (US Pat. No. 1,857,853), is hereby affirmed.

### ***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to NED A. WALKER whose telephone number is (571)270-3545. The examiner can normally be reached on Monday - Friday 7:30 AM - 5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Anthony Stashick/  
Supervisory Patent Examiner, Art  
Unit 3781

NW